IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO : 18339 of 2005

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Dated: 23rd August 2005.

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Between:

S.V.N.Kumar

..... PETITIONER

AND

The Government dof A.P.rep. by its Secretary, I & CA Department and another

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J. CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

W.P.NO.18339 OF 2005

ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

The writ petition is filed with the prayer as follows:

> "For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Certiorari, to set aside and declare the order of the Hon'ble A.P. Admn.Tribunal, Hyderabad passed in O.A.No. 3088/2000 dt.11/04/2005 as illegal, arbitrary, discriminatory and consequently direct the respondents to pass appropriate proceedings giving notional dates of promotions to the petitioner herein as was done in the case of Sri. V. Ramachandra Rao with all consequential benefits and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case."

The petitioner, who is aged about 70 years now, was working and retired as Executive Engineer in the Irrigation Department of the State of Andhra Pradesh. It appears that during the course of his employment, there were some disciplinary proceedings against him and a punishment of stoppage of one annual increment, for a period of one year without cumulative effect, was imposed upon him. According to the petitioner, the operation of the punishment came to an end by 30-04-1992 and

he retired from service on 31-12-1992, i.e., he continued to serve the department in his capacity as Executive Engineer for a period of eight months after the punishment was served.

The case of the petitioner in the present O.A. is that certain other employees of the State in the Irrigation Department, who were also under the same disability of suffering similar punishment, were promoted and therefore, he must be given the same benefit of promotion, in view of his retirement, notionally.

The Tribunal, in our view, rightly came to the conclusion that reference to the cases of other employees is irrelevant to the present case as there was no D.P.C. conducted during interregnum between 30th April 1992 and 31st December 1992. The petitioner has no right of promotion as the next higher post happens to be a post of Superintending Engineer, which is a selection post. The petitioner had only a right to be considered as and when the Government decides to fill up the higher post of Superintending Engineer. If the Government did not choose to fill up the next higher post for the reasons known to them, the petitioner cannot compel the State to fill up the said post and that his case should be considered for promotion.

We do not see any reason to interfere with the order of the Tribunal and the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed at the stage of admission. No costs.

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J.Chelameswar, J

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M.Venkateswara Reddy, J

23rd August 2005

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